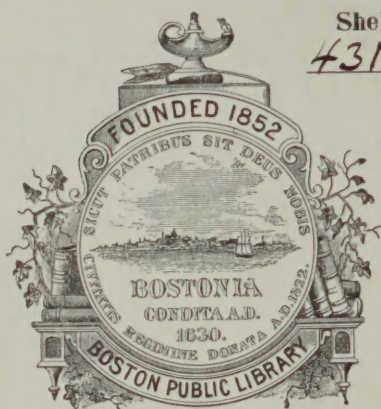


The image shows a full-page view of marbled paper. The pattern consists of dense, vertical, wavy lines of color. The primary colors are a deep red or maroon, a creamy yellow or tan, and a muted blue. There are also small, irregular patches of green. The overall effect is a complex, textured, and somewhat chaotic pattern typical of traditional marbling techniques.

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L.R.

to

B.H.

Feb. 23, 1894.

Dup No. 14 in Rph. n. 447

Case of Geo. M. Weston,

IN THE MATTER OF

THE MASSACHUSETTS WAR CLAIM.

This pamphlet contains a reprint of the reports of a Committee of the Massachusetts Legislature, upon Mr. Weston's claim for the reimbursement of his expenses in the matter of the Massachusetts War Claim, and of a letter addressed by him to the Massachusetts Legislature on that subject.

COMMONWEALTH OF MASSACHUSETTS.

IN SENATE, March 2, 1860.

The Committee on Claims, to whom was referred the petition of George M. Weston, praying for reimbursement for certain moneys expended in securing the payment of the Massachusetts claim against the General Government, in 1859, have considered the same, and, being equally divided in opinion as to the disposition to be made of said petition, they submit the accompanying reports.

IN SENATE, March 2, 1860.

The undersigned, members of the Joint Committee on Claims, to whom was referred the petition of G. M. Weston, praying for compensation for services rendered, and reimbursement of expenses incurred in the prosecution of the claim of Massachusetts against the General Government,

REPORT:

It appears, from the papers and evidence exhibited to the Committee, that the Massachusetts war claim was prosecuted during the whole of the second session of the Thirty-fifth Congress, although the appointment of an agent of this Commonwealth was not made until the 14th of February, 1859, and was not made known until two days afterwards in the city of Washington.

During the whole of this second session of the Thirty-fifth Congress, the claim was pressed by Mr. Weston, acting as agent of Maine, to which State one-third of the claim belonged. We do not understand him as asking anything for his personal services during this or any other period, but that Massachusetts shall reimburse him for two-thirds of legitimate ex-

penditures incurred by him in the premises, prior to February 15, 1859.

If, in incurring these expenditures, Mr. Weston had had no assurances whatever, from the authorities of this Commonwealth, that two-thirds of those expenditures should be borne by the Commonwealth, it would not be proper to treat him as a volunteer or intruder in the matter. This war claim, although owned by the two States in severalty, could only be prosecuted as an entirety. Maine had the same right to prosecute it as Massachusetts had; and if Maine had prosecuted it alone to the last, it is difficult to conceive that this Commonwealth would have resisted its equitable liability to contribute to the fair expenses of a successful prosecution.

But in this case, Mr. Weston had assurances of such eventual contribution, both from Mr. Hanscom, who undertook to speak in anticipation of the appointment as agent, which he finally received, and from Governor Banks, with whom the prosecution of this war claim appears to have been long concerted, and who finally, in a letter addressed to Mr. Weston, on the 7th of February, 1859, used the following language:

"Our purpose is to follow the lead of Maine, and I can assure you that whatever cost may fall to the State of Maine, my influence shall be exerted to induce this State to take its full part of the burden, with any advantages that may follow your efforts."

It appears by a letter recently addressed by the Governor of Maine to the Governor of this Commonwealth, that in the adjustment made by Maine with Mr. Weston, only one-third of his expenditures was taken into account, the other two-thirds being expected to be exam-

ined, and, if proper, allowed by this Commonwealth.

Under all the circumstances, it seems to be due to Maine, our partner in the ownership of this war claim, as well as just to Mr. Weston, that the subject matter of his memorial should be inquired into with candor and impartiality.

In making this inquiry, the Committee have carefully examined Mr. Weston himself, and Hon. N. D. Appleton, the late Attorney General of Maine, who visited Washington in December last, under a commission and instructions from the Governor of Maine, to make careful inquiry on the spot, as to the expenditures and engagements of Mr. Weston. As the result of this examination, the Committee are entirely satisfied that an allowance to Mr. Weston of seven and one-half per centum upon the war claim, making, with the five per centum heretofore paid to Mr. Hanscom, a commission of twelve and one-half per cent. in the whole, will only make such a provision for the expenditures attending its prosecution, as is imperatively called for by the good faith and honor of the Commonwealth.

In regard to the character of the expenditures made by Mr. Weston, your Committee can only say that they are confident that they were such as would be justified by the public, had they that knowledge of the difficulties that attend the collection of any claim, be it large or small, which every resident of Washington possesses, and which Attorney General Appleton testified before us to be so notorious, that he was convinced, on visiting that city, and making close scrutiny of all of Mr. Weston's expenditures, that they were "*most wise and judicious, and without which the claim could never have been collected.*"

In connection with this declaration of Mr. Appleton, we would state that, from papers and vouchers presented to us, we feel assured that the sum of from twenty to thirty-three per cent. is the amount it usually costs any party to collect such a claim, or even a more indisputable one; so that if the State finally pay Mr. Weston the seven and a half per cent. in addition to that already paid, the cost of collection will be far less than is paid by other States, or even private parties.

While making this declaration, the Committee would also state that in their opinion our delegation in Congress not only were doing, but that they did, all that it was in their power to do, and for it they deserve the gratitude of the people, and we feel assured that no one will think that we detract from the value of their labors, when we assert that Mr. Weston should be paid for his expenditures in furtherance of the success of the object for which they so assiduously labored.

In fixing, as your Committee do, upon the maximum amount to be paid to Mr. Weston, we desire one thing to be always borne in mind; and that is, that before a single farthing

of this sum is paid, we deem it the duty of some person to scrutinize most rigidly and closely every expenditure made by the petitioner, and if that result should show that we as a Committee have been misled, no one will rejoice more than we shall at the correction of our error. This course has already been pursued by Maine, Governor Morrill, of that State, sending to Washington Hon. N. D. Appleton (late Attorney General of Maine) for the express purpose of ascertaining all the facts in the case. As we have before remarked, Mr. Appleton came before us; his testimony is clear, full, decided, and to us convincing, (even the entire Committee agree as to its conclusiveness as to Weston's course,) and he is ready at any time to again appear before any parties that may be designated by the Legislature as a proper tribunal before which this whole matter may be ordered to be investigated.

The undersigned therefore suggest, as an act of simple justice to the petitioner, that the honor of the State demands that his claim receive a more thorough and complete investigation than it is in our power to give it, and therefore it should be done by that body a part of whom are conversant with the facts in the case as regard a previous payment for like services to another person, and the presiding officer of which, since 1851, has been intimate with all the intricacies of this vexed question, and also familiar with Mr. Weston's labors, as the agent of Maine, in collecting this long-contested claim. We also propose, in order to guard against any possibility of the payments to Mr. Weston being duplicated by the two States, to empower the tribunal to whom we would refer this whole subject, to act in concurrence with a like body in Maine, as that State has by official action expressed a desire to do. Influenced by all the considerations that we have recited, and many others not stated, we are led to report the accompanying Resolve.

D. F. PARKER,
Senate.

N. K. NOBLE.
T. M. STOUGHTON.

Resolve in relation to the claim of George M. Weston.

Resolved, That the Governor and Council be and are hereby authorized to examine alone, or in concurrence with the Governor and Council of Maine, all and every claim that may be presented to them by George M. Weston, late of Maine, for services rendered, and moneys promised or expended by him, in aiding the collection of the claim of Massachusetts against the General Government, for services of her soldiers in the last war with Great Britain; and they are hereby empowered, in furtherance of this subject, to send for persons and papers; and if, in their opinion, after such investigation is concluded, said Weston has a valid claim against the State as set forth in his petition, there shall be paid to him a commission,

upon the Massachusetts portion of said claim, a sum not exceeding seven and one-half per cent., and the Governor shall draw his warrant for the same, agreeably to the tenor of this resolve.

MINORITY REPORT.

IN SENATE, *March 2, 1860.*

A minority of the Joint Standing Committee on Claims, to whom was referred the petition of George M. Weston, praying for remuneration of moneys expended by him in obtaining the claim of Massachusetts against the United States, submit the following:

That said Weston appeared before the Committee, together with Judge Wells and Attorney General Appleton, of Maine, and proved, to the satisfaction of the Committee, that said Weston, who was agent for the State of Maine, did obligate himself to pay to sundry individuals, in sums from one thousand to five thousand dollars each, to the amount of twenty-two thousand dollars, a large portion of which amount he actually paid over, to induce or influence certain persons so to operate or labor as to secure the passage of the bill allowing said claim, and this influence was so directed as in a large measure to produce the necessary result.

There was, however, no evidence before the Committee to prove that he, the said Weston, was the authorized agent of Massachusetts to obtain said claim, but there was evidence to prove that he had reason to hope or expect that something would be done for him in the case.

The Legislature of 1859, February 11th, passed the following:

"Resolved, That the Governor, by and with the advice and consent of the Council, be authorized to employ an agent to co-operate with the agent employed by the State of Maine, in the prosecution of the claim of this Commonwealth upon the Government of the United States; that the compensation of such agent be fixed by the Governor and Council."

In compliance with said resolve, Simon P. Hanscom, Esq., was appointed agent.

March 8th, 1859, the Governor informed the Legislature that he had received information from the agent that an appropriation of \$227,176 had been made by an act of the last Congress, for the payment of the claim, and the amount was received by the State Treasurer, May 24, 1859, two-thirds of the amount belonging to this Commonwealth, and the balance to the State of Maine.

Mr. Weston appeared before the Governor and Council, in connection with Mr. Hanscom, and made known all the facts in the case, to induce them to allow Mr. Hanscom a sum sufficient, for his services, to satisfy the joint demands of both parties.

The Governor and Council, after hearing the parties, allowed Mr. Hanscom the sum of seven

thousand five hundred and seventy-two and fifty-five one-hundredths dollars, (\$7,572.55,) which was paid over to him, the said Hanscom, May 26, 1859, none of which amount has been paid over to Mr. Weston by said Hanscom, the parties agreeing to wait until after the matter was laid before the Legislature, and its results ascertained.

The undersigned, a minority of the Committee, therefore respectfully report that the petitioner have leave to withdraw.

N. BOYNTON.

JOHN C. TUCKER.

OTIS CARY.

THE MASSACHUSETTS WAR CLAIM.

To the Members of the Legislature of Massachusetts.

WASHINGTON, *March 7, 1860.*

I beg the indulgence of the members of the Legislature of Massachusetts, for the adoption of this method of stating some circumstances having connection with the resolve in my favor, reported by the Committee on Claims.

This resolve provides for the payment, not exceeding a certain sum, of two-thirds of my expenditures and engagements in the prosecution before Congress of the Massachusetts war claim.

This claim became the subject of conference between myself and Mr. Banks, when he was Speaker of the United States House of Representatives. He then, as the result of his own personal experience in the prosecution of the claim, as agent of Massachusetts, in 1852, expressed his most decided opinion, that it was idle to undertake it again, except upon the allowance of such a per centage in the event of success, as would afford the means of employing assistance in bringing the real merits of a claim, obscured by so many prejudices, to the attention of members of Congress. This opinion, expressed to me by Mr. Banks when he was Speaker, he continued to express to me at all subsequent times, down to, and at the period, just before the assembling of Congress in December, 1858, when he stated to me that he had come to the determination to recommend the appointment of an agent at Washington, upon the footing I have described, to the Legislature of Massachusetts, which was to come together early in the following January. It was supposed by Mr. Banks, that if the recommendation was favorably received by the Legislature, the contemplated appointment might be authorized and made, certainly in all the month of January.

This preliminary statement of the opinions of Mr. Banks is given, from no wish to parade them unnecessarily before the public, and also without fear of offending him by stating them in this way, as he himself does on all proper occasions. They are certainly entitled to weight,

from his experience as a member and as the presiding officer of the United States House of Representatives, and from his special experience, at a former period, as the agent at Washington of Massachusetts in the prosecution of the precise claim under consideration.

While there are, doubtless, considerations connected with the dignity of the sovereign States of the Union, which render it morally impossible that they should descend to some of the practices which are reported to be resorted to at Washington, there is nothing in that dignity, upon the extremest view of it, which can exempt them from conforming to the necessities which attach to all claims presented to such a tribunal as Congress is, and it is difficult to conceive in what way the circumstances attending the presentation of cases before such a tribunal can be changed. At any rate, until they are changed, they must be dealt with as they are.

In order to the decision of claims upon their merits, there must be examination, and practically this cannot be had in the form of debate, especially in the House, with the little time which can be devoted to private business, and with the immense amount of that species of business pressing upon Congress, and accumulating, of late years, from the almost total neglect of it. If examination is obtained at all, it must be, either by the perusal of printed documents, evidence, and arguments, by the members of Congress, at their private rooms, or by their permitting oral explanations to be made to them there. It is needless to say that these gentlemen, with the immense pressure of all sorts upon their time, do not read every printed paper which is enclosed to them, and that they cannot permit every claimant to state his case orally. If they read a quarter part of the printed matter which is sent to them, they would have time for nothing else; and if they permitted themselves to be addressed personally by every claimant, they could do nothing but give audience to claimants, and would still be obliged to turn away vast crowds unheard. In fine, there must be discrimination, and this discrimination is determined by the same circumstances of personal and political friendship, or accidental association, which determine discriminations of that sort everywhere. If a member of Congress is to be persuaded to examine papers, and oftentimes tedious papers, relating to matters not interesting to his own constituency, he must be persuaded to do so by somebody who, from whatever cause, has some particular facility of access to him. And if the whole-body of Congress is to be canvassed, the canvassers must be numerous, and this, not merely from the physical impossibility that any one single person should, in the lifetime of a Congress, personally solicit the three hundred gentlemen who compose it, but because, also, the familiar acquaintance of the best acquainted man is limited, while the same condi-

tions, geographical or political, which would command favor in one quarter, would excite prejudice and repulsion in another. These ideas, suggested here, rather than elaborated, explain how and why it is, that it is necessary to employ assistants in the presentations to Congress of claims, not likely, from their importance, to be decided simply upon the reports of committees. That this state of things exists, is no more an impeachment of the justice of Congress, than that it is an impeachment of the judicial tribunals, in which justice is said to be dispensed freely, that it is necessary to obtain this justice through the expensive employment of counsel.

These circumstances of difficulty in the management of claims before Congress, notoriously recognised by the usual rate of charges to individuals, attach as well to the claims of States, in numerous instances of which, much higher rates have been paid, than the utmost cost with which it is attempted to tax Massachusetts in this instance.

And if any claim needed all the accustomed aids, it was certainly this one, originating nearly half a century ago, and, in its more recent form, depending upon an audit made in 1837, bearing the official signature of Mr. Poinsett, Secretary of War, but which it is known that he did not personally make, and to which he manifested his active opposition by resisting the appropriation then attempted to be made for it. The audit was before Congress for eight years, commanding the support of the Senate by lean majorities, decisively voted down in the House, and finally killed off, to all human appearance, by the elaborate adverse report of the Military Committee of that body in 1845. Truth and justice are immortal; but if it could ever be said of any claim that it had become stale, flat, and unprofitable, it could be said of this Massachusetts war claim, which was resurrected to victorious life in 1859, in the face of adverse political majorities in both branches of Congress, with a man in the Presidency who had voted against it as a Senator, and with a Treasury on the verge of bankruptcy.

It would seem superfluous to add, and I only do so from excess of caution, that the idea of any improper approach to members of Congress, was never suggested to me, or by me, in this whole transaction. The supposition that the sovereign members of this Union could ever degrade themselves to a participation in practices derogatory to the dignity of a Government, which is their common agent, is so monstrous and abhorrent, that it is something painful and repulsive to name it, even for the purpose of repudiating and denouncing it.

The proceedings in the Legislature of Massachusetts not having been so prompt as was hoped, the appointment of an agent was not made until the 14th of February, 1859, and his commission did not arrive here until the 16th of February, being fifteen days before the ad-

jourment of Congress. This did not prevent that agent (Mr. Hanscom) from rendering service before that time, in anticipation of his appointment. Although there were delays in the Legislature, everything indicated that the appointment of an agent would be authorized, as it finally was, and the reasons which Mr. Hanscom had to suppose that the appointment would, when authorized, be given to him, were sufficient to induce him to act in anticipation of the event. But although he could act and did act prior to the 16th of February, 1859, so far as personal service went, he was not in a condition to enter into pecuniary engagements with others, the great bulk of which were necessarily made before that time. In his report to the Executive of Massachusetts, of the 15th of March, 1859, he described the transaction in the following language :

"From the nature of the case, my commission, dated the 14th of February, not having actually arrived in Washington until the 16th of February, I was not able to assume pecuniary responsibilities until that time, and Mr. Weston was obliged to go forward alone in that regard. He did so, under such assurances as I was able to give him, and with a reliance, if my expected commission was finally not received, upon a just settlement with Massachusetts, in respect to the burdens of an enterprise, the benefits of which would be common to both Massachusetts and Maine."

This report of Mr. Hanscom enclosed a letter from me to him, of March 10, in which the following similar language is found :

"Your commission did not arrive in Washington until the 16th day of February, whereas a large part of the pecuniary arrangement was compelled to be made long before that."

In fact, when Mr. Hanscom's commission finally came, it contained no stipulation for any percentage of the claim which was under prosecution, or any authority in any form for the assumption of pecuniary responsibilities. This was wholly unexpected to both of us, and was not conformable to the anticipations of Governor Banks.

When the entire month of January had run out, with no appointment authorized by Massachusetts, and with only thirty-one days of the session of Congress remaining, my anxiety became extreme. I could not but see that further delays would be fatal, and I addressed a note to Governor Banks, setting out the urgency of affairs, and the impossibility of waiting any longer without giving up the enterprise altogether, and desiring to know what I could expect from Massachusetts, if I went forward alone. To this note I received a reply, dated Feb. 7, 1859, which I copy here entire :

"I have deferred writing, in the expectation of sending you information of the concurrence of the Legislature in the appointment of an agent to co-operate with the agent of Maine.

' This will be done in a few days, but some delay is unavoidable.

"Our purpose is to follow the lead of Maine, and I can assure you that whatever cost may fall to the State of Maine, my influence shall be exerted to induce this State to take its full part of the burden, with any advantages that may follow your efforts. I hope soon to notify you of a concurrent appointment.

"Mr. Harris has never sent to us any account for his services. The Secretary of State has written him several times, and he has promised to give us the information."

It is upon this evidence, that I submit to you that I had all necessary authority from Massachusetts to proceed in the premises.

And I submit further, that I needed no such authority, the claim under prosecution being as well the property of Maine as of Massachusetts, and not being divisible. I was authorized to prosecute the claim of Massachusetts, by Maine, to which State one-third of it belonged, and the manner in which I prosecuted it, conformed to the expectations of the Government of that State, and has been approved and sanctioned by it since. Of my authority to conduct the prosecution of the Massachusetts claim independently altogether of the assurances of Mr. Hanscom, or of Governor Banks, there can be no question whatever. Undoubtedly, it would be at the discretion of Massachusetts, to contribute, or not, towards expenditures which she did not herself authorize, but this sort of discretion is not that of arbitrary, and despotic power, but restrained and controlled by the considerations which subject the conduct of Christian commonwealths to the rule of reason and of right. *Sic volo. Sic jubeo. Stet pro ratione voluntas.* It was only the most bitter of the satirists who could ascribe that atrocious sentiment to those who wielded power at the worst epoch of imperial Rome. The discretion of civilized States, is but another name for their duty to conform to the rules of justice, and I am persuaded it can be delegated to no safer hands anywhere, than to those of the enlightened people and Government of Massachusetts. In this case, if it be assumed that I was not authorized at all by the authorities of Massachusetts, it would be simply a question whether the expenditures which I claim to have made, were actually made, were judicious, and have resulted in important benefit to Massachusetts.

The statement of those expenditures, made by me recently to your Committee on Claims, was precisely that made to your Executive Council by Mr. Hanscom and myself, soon after the adjournment of the last Congress. It was so submitted to them, with a view to induce them to make such an allowance to Mr. Hanscom, as would have enabled him to have paid the two-thirds of those expenditures which belonged to Massachusetts, in the proportion of her interest in the claim which had been successfully prosecuted. For reasons, which

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